

**IN THE BOARD OF SUPERVISORS**  
COUNTY OF SAN LUIS OBISPO, STATE OF CALIFORNIA

\_\_\_\_\_ day \_\_\_\_\_, 2015

**PRESENT:** Supervisors

**ABSENT:**

RESOLUTION NO. \_\_\_\_\_

**RESOLUTION AFFIRMING THE DECISION OF THE  
PLANNING COMMISSION AND CONDITIONALLY APPROVING  
THE APPLICATION OF PG&E AND PORTNOFF TRUST FOR CONDITIONAL USE  
PERMIT DRC2014-00006**

The following resolution is now offered and read:

WHEREAS, on October 23, 2014, the Planning Commission of the County of San Luis Obispo (hereinafter referred to as the “Planning Commission”) duly considered and conditionally approved the application of PG&E and Portnoff Trust for Conditional Use Permit DRC2014-00006; and

WHEREAS, Betsy Brown has appealed the Planning Commission’s decision to the Board of Supervisors of the County of San Luis Obispo (hereinafter referred to as the “Board of Supervisors”) pursuant to the applicable provisions of Title 22 of the San Luis Obispo County Code; and

WHEREAS, a public hearing was duly noticed and conducted by the Board of Supervisors on January 27, 2015, and a determination and decision was made on January 27, 2015; and

WHEREAS, at said hearing, the Board of Supervisors heard and received all oral and written protests, objections, and evidence, which were made, presented, or filed, and all persons present were given the opportunity to hear and be heard in respect to any matter relating to said appeal; and

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WHEREAS, the Board of Supervisors has duly considered the appeal and finds that the appeal should be denied and the decision of the Planning Commission should be affirmed subject to the findings and conditions set forth below.

NOW, THEREFORE, BE IT RESOLVED AND ORDERED by the Board of Supervisors of the County of San Luis Obispo, State of California, as follows:

1. That the recitals set forth hereinabove are true, correct and valid.
2. That the Board of Supervisors makes all of the findings of fact and determinations set forth in Exhibit A attached hereto and incorporated by reference herein as though set forth in full.
3. That the mitigated negative declaration prepared for this project is hereby approved as complete and adequate and as having been prepared in accordance with the provisions of the California Environmental Quality Act.
4. That the Board of Supervisors has reviewed and considered the information contained in the mitigated negative declaration together with all comments received during the public review process prior to approving the project.
5. That the appeal filed by Betsy Brown is hereby denied and the decision of the Planning Commission is affirmed that the application of PG&E and Portnoff Trust for Conditional Use Permit DRC2014-00006 is hereby approved subject to the conditions of approval set forth in Exhibit B attached hereto and incorporated by reference herein as though set forth in full.

Upon motion of Supervisor \_\_\_\_\_, seconded by Supervisor \_\_\_\_\_, and on the following roll call vote, to wit:

AYES:

NOES:

ABSENT:

ABSTAINING:

the foregoing resolution is hereby adopted.

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Chairperson of the Board of Supervisors

ATTEST:

\_\_\_\_\_  
Clerk of the Board of Supervisors

[SEAL]

APPROVED AS TO FORM AND LEGAL EFFECT:

RITA L. NEAL  
County Counsel

By:   
Deputy County Counsel

Dated: January 13, 2015

STATE OF CALIFORNIA,                    )  
                                                      )       ss  
County of San Luis Obispo            )

I, \_\_\_\_\_, County Clerk and ex-officio Clerk of the Board of Supervisors, in and for the County of San Luis Obispo, State of California, do hereby certify the foregoing to be a full, true and correct copy of an order made by the Board of Supervisors, as the same appears spread upon their minute book.

WITNESS my hand and the seal of said Board of Supervisors, affixed this \_\_\_\_\_ day of \_\_\_\_\_, 2015.

\_\_\_\_\_  
County Clerk and Ex-Officio Clerk of the  
Board of Supervisors

(SEAL)

By: \_\_\_\_\_  
Deputy Clerk

**EXHIBIT A - FINDINGS**  
**PORTNOFF / PG&E CONDITIONAL USE PERMIT DRC2014-00006**

***Environmental Determination***

- A. The Environmental Coordinator, after completion of the initial study, finds that there is no substantial evidence that the project may have a significant effect on the environment, and the preparation of an Environmental Impact Report is not necessary. Therefore, a Mitigated Negative Declaration (pursuant to Public Resources Code Section 21000 et seq., and CA Code of Regulations Section 15000 et seq.) has been issued on September 11, 2014 for this project. Mitigation measures are proposed to address Aesthetics, Noise, and Public Services/Utilities, and are included as conditions of approval.

***Conditional Use Permit***

- B. The proposed project is consistent with the San Luis Obispo County General Plan as the proposed use is an allowed use and, as conditioned, is consistent with all applicable General Plan policies. The project's noise study (Dubbink Associates; August 25, 2014) measured existing ambient noise levels (including existing facilities) at 40 decibels or less and determined that the proposed air conditioning units would produce 35 decibels LEQ (hourly energy average), which complies with the most restrictive 45 LEQ noise standard of the Noise Element of the County General Plan.
- C. As conditioned, the proposed project satisfies all applicable provisions of Title 22 of the County Code. The proposed project meets applicable standards for communications facilities, as it will be collocated on a site that is developed with six wireless communications facilities and is consistent with the visual expectations for the site. The proposed project is exempt from the 35-foot height limitation because it is a communications tower for a public utility.
- D. The establishment and subsequent operation of the proposed project will not, because of the circumstances and conditions applied in the particular case, be detrimental to the health, safety or welfare of the general public or persons residing or working in the neighborhood of the use, or be detrimental or injurious to property or improvements in the vicinity of the use because the project does not generate activity that presents a potential threat to the surrounding property and buildings. The proposed project is subject to Ordinance and Building Code requirements designed to address health, safety and welfare concerns. According to the radio frequency evaluation (Hammett & Edison; August 2014), the maximum level of RF emissions from the proposed project would be equivalent to 0.63 percent of the applicable FCC public exposure limit. Calculated cumulative levels for the existing measured levels plus the calculated levels for the new PG&E antennas are equivalent to 2.1 percent of the public limit. These calculated results include several "worst-case" assumptions and therefore are expected to overstate actual power density levels.
- E. The proposed project or use will not be inconsistent with the character of the immediate neighborhood or contrary to its orderly development because it will be

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collocated on a site with six existing wireless communications facilities and therefore will not conflict with or degrade the visual character of the surrounding area.

- F. The proposed project or use will not generate a volume of traffic beyond the safe capacity of all roads providing access to the project, as the proposed project is expected to generate approximately two vehicle trips every six to eight weeks for routine maintenance. This small amount of additional traffic would have a negligible effect on existing levels of service for County and State roadways.

**EXHIBIT B – CONDITIONS OF APPROVAL  
PORTNOFF / PG&E CONDITIONAL USE PERMIT DRC2014-00006**

**Approved Development**

1. This approval authorizes the construction and operation of an unmanned wireless communications facility consisting of the following improvements:
  - A. One 100' tall lattice communications tower with a 9'1" x 9'1" base anchored to a 15' x 15' concrete slab;
  - B. Ground-mounted equipment within an existing 170 square-foot equipment shelter; and
  - C. Fuel cell storage on an approximately 30 square-foot concrete slab.
2. All development shall be consistent with the approved site plan, equipment plan, and architectural elevations.

**Conditions to be completed at the time of application for a construction permit**

***Noise***

3. **At the time of application for construction permits**, the construction drawings shall include manufacturer specification sheets, with noise level data, for the proposed air conditioning units. The air conditioning units for the project shall operate at no more than 52 dB, measured at a 50 foot distance.

**Conditions to be completed prior to issuance of a construction permit**

***Public Services / Utilities***

4. **Prior to issuance of a construction permit**, the applicant shall obtain and implement a "Fire Safety Plan" that has been approved by CAL FIRE.

***Mitigation Monitoring/Condition Compliance***

5. **Prior to issuance of a construction permit**, a "condition compliance" sheet shall be added to construction plans that include a complete copy of the final conditions of approval for the project.

***Fire Safety***

6. **Prior to issuance of a construction permit**, all plans submitted to the Department of Planning and Building shall meet the fire and life safety requirements of the California Fire Code as set forth in Cal Fire letter from Tony Gomes dated August 27, 2014.

**Conditions to be completed during project construction**

***Fire Safety***

7. **During construction**, activities that pose an ignition source will have to comply with fire safety laws. This includes welding activities and use of heavy equipment.

All equipment must be in compliance. Consideration of fuel breaks or other treatment shall occur in construction area. If a fire ignites due to construction activities the responsible party may be liable for suppression costs.

**Conditions to be completed prior to final building inspection**

8. **Prior to final inspection**, the applicant shall contact the Department of Planning and Building to have the site inspected for compliance with the conditions of approval.
9. The facility shall not be operated until all conditions of approval have been met and all required building permits have received final inspection.

***Explanatory Warning Signs for Occupational Exposures***

10. **Prior to final inspection**, explanatory warning signs\* to prevent occupational exposures in excess of the FCC guidelines are to be posted at the site on all sides of the surrounding fencing and antennas such that they would be readily visible from any angle of approach to persons who might need to work near the antennas. In addition the signs shall inform workers and possible hikers to remain outside the fences or deactivate the site before working within 7 feet of the antennae. (\*Warning signs should comply with ANSI C95.2 color, symbol, and content conventions. In addition, contact information should be provided (e.g., a telephone number) to arrange for access to restricted areas.)

***Hazardous Materials***

11. **Prior to final inspection**, the applicant shall provide verification from Environmental Health that the Hazardous Materials Business Plan has been implemented.

***Site Restoration***

12. **Prior to final inspection**, the applicant shall post a performance agreement and financial instrument with the County in an amount commensurate with the cost of facility removal and site restoration. The financial instrument shall be released by the County at the time the facility is removed and the site is restored.

**On-going conditions of approval (valid for the life of the project)**

13. This land use permit is valid for a period of 24 months from its effective date unless time extensions are granted pursuant to Land Use Ordinance Section 22.64.070 or the land use permit is considered vested. This land use permit is considered to be vested once a construction permit has been issued and substantial site work has been completed. Substantial site work is defined by Land Use Ordinance Section 22.64.080 as site work progressed beyond grading and completion of structural foundations; and construction is occurring above grade.
14. All conditions of this approval shall be strictly adhered to, within the time frames specified, and in an on-going manner for the life of the project. Failure to comply with these conditions of approval may result in an immediate enforcement action by the Department of Planning and Building. If it is determined that violation(s) of

these conditions of approval have occurred, or are occurring, this approval may be revoked pursuant to Section 22.74.160 of the Land Use Ordinance.

15. All project-related facilities shall be removed within twelve months of cessation of the applicant's wireless communications operations on the site. The applicant shall be responsible for the removal of such facility and all associated structures and restoration of the site to pre-project condition. Restoration does not include removal of vegetation planted to provide visual screening. At the time the use of the facility is discontinued the owner of the facility must notify the Department of Planning and Building.

***Electric and Magnetic Fields***

16. The facility shall be designed and operated to ensure that power densities received from transmissions, with all transmitters at the site transmitting at full power, will comply with federal law and regulation.

***Noise***

17. The proposed PG&E facility shall be operated to ensure noise generated is not audible from adjacent parcels. Total cumulative noise levels (existing and the proposed PG&E equipment) shall not exceed 45 dB.
18. **Prior to September 1, 2015**, the applicant shall submit to the Department of Planning and Building a noise study, conducted by a qualified consultant, measuring the cumulative (existing and proposed PG&E equipment) noise levels at the adjacent parcel to the south during evening hours (10 p.m. to 7 a.m.) when air conditioning units are operating. The cumulative noise levels shall not exceed 45 dB at adjacent parcel boundaries.
19. The applicant shall as a condition of approval of this conditional use permit defend, at its sole expense, any action brought against the County of San Luis Obispo, its present or former officers, agents, or employees, by a third party challenging either its decision to approve this conditional use permit or the manner in which the County is interpreting or enforcing the conditions of this conditional use permit, or any other action by a third party relating to approval or implementation of this conditional use permit. The applicant shall reimburse the County for any court costs and attorney's fees which the County may be required by a court to pay as a result of such action, but such participation shall not relieve the applicant of his obligation under this condition.